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May 25, 2012

Mr. Philip Weinberg  
Assistant Commissioner for Operations  
and Environmental Compliance  
Massachusetts Department of Environmental Protection  
One Winter Street  
Boston, MA 02108

**Delivery: By Email with FedEx to Follow**

**Subject: GenOn Kendall, LLC  
USEPA Region 1 DOCKET NO. 11-005  
MassDEP File No. UAO-BO-11-1N001  
NPDES Permit No. MA0004898  
Construction Schedule of the Proposed Veolia Steam Line**

Dear Mr. Weinberg:

Thank you for your letter of May 9, 2012, to both GenOn Kendall, LLC ("GenOn") and Veolia Energy Boston Inc. ("Veolia"), requesting a meeting to discuss a number of questions you have regarding the Veolia steam line. GenOn has confirmed a meeting with you at your offices on May 29, 2012 at 1:30.

GenOn thought it would be helpful to give you, in advance of the meeting, a brief chronology of the route changes that have occurred, relative to GenOn's meetings and filings with the Massachusetts Department of Environmental Protection ("MassDEP"). We also wanted to respond in advance to some of the questions you raised in your letter. GenOn understands from Veolia that it is planning to address the questions on the steam line construction options during our meeting on May 29<sup>th</sup>.

#### **Chronology of Route Changes**

Since the inception of the steam line project, the preferred route has changed twice and appears to be changing a third time. As Veolia is the owner and constructor of the steam line, it has sole discretion over the proposed routing.

As you will recall, the first route was over the Longfellow Bridge ("Longfellow route"). In 2011, Veolia selected a new route going up Land Boulevard to the Craigie Dam/Bridge and continuing in front of the Museum of Science ("Land Boulevard route"). When Veolia made that decision, it gave GenOn written notice on December 9, 2011. GenOn reported the route change to both MassDEP and the Environmental Protection Agency ("EPA") in writing on December 16, 2011. When GenOn met with MassDEP, EPA



and Veolia on February 16, 2012, the Land Boulevard route was the route around which the discussion took place. Veolia stated at that meeting that they had, by that time, applied for 90 percent their permits and approvals for that route. Those applications included DCR Access Permits that, according to Veolia, had been pending since June 2011.

Perhaps some confusion has arisen from Veolia's interest in accessing a short cut across a small piece of DCR land between Land Boulevard and the Museum of Science Parking Garage. That short cut was not part of the primary Land Boulevard route, and was not shown on the map presented by Veolia at the February 16th meeting. When Veolia mentioned to GenOn that it had been considering that short cut, Veolia emphasized that it would abandon the short cut idea if the necessary approvals for the short cut were not in hand when construction on the section of the steam line that included the short cut would be required. GenOn was indifferent as to the short cut; if the approvals could be obtained quickly, the short cut would speed up the steam line construction; if the approvals for the short cut could not be obtained in time, construction on the project would not be delayed.

At the March 30<sup>th</sup> meeting referenced in your letter, GenOn presented the impact on the feasibility of the NPDES compliance project from unduly accelerating the issuance of the Notices to Proceed. Because the short cut would never be determinative of when construction would start on the steam line, it simply was not a topic GenOn would have thought to discuss at the March 30<sup>th</sup> meeting.

On April 11th, GenOn noticed that an ENF had been published in the Environmental Monitor for the steam line project. Consistent with GenOn's understanding, the preferred route described in the ENF was the Land Boulevard route. Also, consistent with our discussions with Veolia, it also included the short cut over to the Museum of Science Parking Garage. However, admittedly to our surprise, the ENF also presented "a variant" route which would head to the Museum of Science via the Cambridge Parkway. GenOn immediately contacted Veolia management and asked how seriously Veolia was considering changing the route to use the Cambridge Parkway. GenOn was advised that Veolia's planning process always includes ongoing evaluations of options and that no decisions had been made to change the route.

With respect to GenOn's April 17th filing with MassDEP and EPA, there are two reasons why it did not include information on the "variant" route which appeared in the ENF. First, the purpose of the April 17th filing was to respond to the agencies' request for more information explaining why accelerating the issuance of the Notices to Proceed undermines the feasibility of the NPDES compliance project. Veolia's mention of a variant route in an ENF had no bearing on the analysis of the economic consequences of acceleration. Second, based on the feedback we received from Veolia regarding the variant route, GenOn had no basis for advising the agencies that Veolia had decided to change the route to the Cambridge Parkway. As of April 17th, GenOn knew nothing more about that route than what Veolia had already publicly disclosed to MassDEP in its ENF filing.

On April 25th, GenOn reviewed a copy of Veolia's Supplemental ENF and became aware that Veolia was proposing to change the route for the third time. The Supplemental ENF named the Cambridge Parkway route as Veolia's preferred route, citing a number of benefits. Again, GenOn contacted Veolia to discuss this development. We were advised that the new route was proposed in response to concerns expressed by the City of Cambridge relative to the Land Boulevard route, and because the construction period for the project would be shorter.

When GenOn submitted its Quarterly Report to MassDEP and EPA on April 30th, for the period January 1 through March 31, GenOn reported on all of its activities during the period and the developments in the Forward Capacity Auctions. Somewhat ironically, as of April 30th, MassDEP had received from Veolia as much information on the possible route change as GenOn had. On May 11th, two days after receiving



your letter, GenOn received an update from Veolia indicating that they had filed at MEPA for approval to access the short cut and that the Cambridge Parkway was now Veolia's preferred route.

GenOn believes it has given MassDEP and EPA timely notice of every actual project change by Veolia of which we have been informed and of every significant development in matters for which GenOn is responsible (such as requesting to delist capacity at ISO New England.) We will continue to do so throughout the remainder of this project.

#### **Implications of Delisting Request Denial on the Requested AO Amendments**

As reported in our Quarterly Report filed on April 30th, unless ISO New England ("ISO") reverses its denial of GenOn's request submitted in April (Forward Capacity Auction #6) to delist approximately 27 megawatts as of June 1, 2015, Kendall Cogeneration Station will be required to maintain its current capacity through at least May 31, 2016. Because the reconfiguration of the plant to achieve compliance with the 2010 NPDES Permit limits will decrease the capacity of the Station, the reconfiguration (including the installation of the BPST) would not be permitted until at least June 1, 2016. Even if successful, however, the Station would have to continue to operate at its current capacity until June 1, 2015.

When we met with MassDEP and EPA on March 30th, prior to the denial of our request to delist approximately 27 MW for FCA #6, GenOn proposed that the Notices to Proceed be issued pursuant to the following schedule:

Issue the Notices to Proceed within 10 days after the later of (i) the date upon which all Governmental Approvals, other than any necessary building permits, have been obtained, are no longer subject to appeal and are effective, and (ii) December 31, 2013, provided, however, that if construction of the Steam Line is not anticipated to be complete by that date solely as a result of construction restrictions arising from the Longfellow Bridge Rehabilitation Project, the Permittee and EPA [MassDEP] shall engage in negotiations, commencing not later than October 31, 2013, to agree on a reasonable extension based on EPA's [MassDEP's] and the Permittee's understanding of the schedule for completion of construction and testing of the Steam Line.

The December 31, 2013 date provided 18 months for fabrication and delivery, allowing the equipment to be on site by June 2015. Thereafter, the new equipment could have been installed consistent with our obligation to maintain the current capacity until June 1, 2015. However, unless the denial of the delist request in FCA #6 is reversed, further discussion will need to take place between GenOn and agencies.

#### **Other Issues**

Regarding the steam line construction timeline and remaining regulatory approvals, we believe it is appropriate for Veolia to provide you with that information. GenOn can provide you with an update during the meeting on our permitting and engineering/design progress on the BPST and ACC if you wish. Please note, however, that with respect to being able to deliver additional steam to Veolia, GenOn does not need any additional approvals or authorizations to begin such deliveries. During the outage in April, GenOn performed some significant construction work within the Station to be ready to connect the new steam line. The Station is ready to deliver to the new steam line as soon as Veolia completes the line.

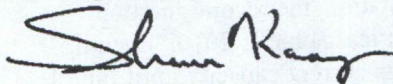


As to any "pinch points" in Veolia's steam distribution system, Veolia would need to advise you on that topic. The same is true with respect to your inquiry regarding Massachusetts General Hospital.

Notwithstanding the various twists and turns in Veolia's steam line routing process, Veolia has always proposed these alternatives in an attempt to accelerate the project and remove any delays, GenOn is still expecting to achieve compliance with the 2010 NPDES Permit no later than what was assumed as a "best case" at the time of the settlement. To accelerate the date by which we can start delivering more steam to Veolia, GenOn would appreciate any help that MassDEP and EPA can provide to Veolia to expedite the steam line permitting process.

We look forward to meeting with you next week.

Sincerely yours,



Shawn Konary  
Director, Environmental Policy and Regulatory Affairs

Copies:

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